

ARTICLE 3

RURAL DISTRICT REGULATIONS

PART 0 RURAL DISTRICTS IN GENERAL

3-001 General Purpose and Intent

Rural zoning districts are established in the Zoning Ordinance to implement Fauquier County Comprehensive Plan goals and policies that relate to protecting and preserving farming and agricultural lands, woodlands, open spaces and the scenic beauty of the County, critical and environmentally sensitive areas and resources. The rural zoning districts embody most of the land area of Fauquier County. While there are scattered but limited existing residential and non-agricultural and non-forestral uses in these districts, it is the clear intent of the Comprehensive Plan and this Ordinance to limit and manage carefully new non-agricultural and non-forestry development in these zoning districts. Where new residential development is permitted to occur, it is the intent of this Ordinance to regulate this development in such a manner as to minimize negative impacts, including land use conflicts between agricultural uses and new residential development.

3-002 Rural Districts Established

The following rural zoning districts are established:

Rural Conservation District (RC)
Rural Agricultural District (RA)

3-003 Rural Residential District Discontinued

The 1981 Zoning Ordinance included the Rural Residential (RR-2) District as a rural zoning district. The RR-2 district provided for limited residential development outside of Service Districts and Villages. This district was intended to recognize the existence of a number of residential areas scattered throughout the County and the existence of land that might not be suitable for agriculture and forestry. Only a very small portion of the land area of the County is zoned RR-2, and rezoning of land to this designation has been rarely done. In view of the limited applicability of the RR-2 district and in recognition that it is not the intent of the Comprehensive Plan or this Ordinance to encourage residential development in the rural areas as a primary use, the RR-2 District is hereby discontinued. Unless changed by a Zoning Map amendment in

accordance with Article 9 land currently zoned as RR-2 will remain so zoned. The density of the RR-2 district shall be one lot/dwelling unit per two acres. All other Zoning Ordinance provisions for land zoned as RR-2 shall be the same as contained in the Zoning Ordinance in effect immediately prior to the deletion of the RR-2 Zoning District.

PART 1 3-100 RURAL (RC) CONSERVATION DISTRICT

3-101 Purpose and Intent

The RC Rural Conservation District is established primarily to preserve and protect those mountains which are environmentally sensitive, have physical limitations, and contain much of the County's timber resource. The regulations are designed with emphasis on the conservation of these areas to minimize the potential adverse environmental impact while providing for compatible very low density residential uses. While this Ordinance allows for limited and carefully regulated new residential development in the RC district, it is the purpose and intent of this Article as well as Article 4 which follows to encourage and direct new residential growth into designated Service Districts.

3-102 Uses Permitted By Right

The following principal uses shall be permitted by right in the RC District subject to the use limitations set forth in **Section 3-106** below and in **Article 8**:

Residential Uses

1. Dwelling, single family detached.
2. Dwelling, manufactured.

Residential Business Uses

3. Home occupation with no retail sales or service.

Community Uses

4. Recreational or social uses approved as part of a subdivision or site plan and operated for use of residents only.

Recreation

5. **Equestrian facilities (boarding and instruction) (nonspectator)**
<Was SP>

Wholesaling, Processing and Industrial Uses

6. On-site processing and sales of agricultural and aquacultural products

Agriculture

7. Farm: crop, livestock, horse, **dairy <Dairy was SP>**
8. **Cattle feedlot; swine farm <Was SP; need standards >**
9. Forestry

10. **Greenhouse or plant nursery, without retail <Was SP if > 10,000sq.ft.>**
11. Orchard/vineyard
12. Winery, without events
13. Land application of Class B biosolids

Utilities

14. Water and sewer pumping and storage facilities, below ground
15. Telecommunications facilities up to 80 feet in height
16. ~~Government recreational athletic use <Category eliminated from ZO>~~

3-103 Uses Permitted by Administrative Permit

The following uses may be approved by Administrative Permit by the Zoning Administrator pursuant to the regulations and standards of **Article 8** and procedural requirements of Part **7 of Article 9**:

Residential Uses

1. Apartment, efficiency
2. Apartment, family

Temporary Uses

3. Construction office
4. Temporary manufactured home while constructing a dwelling
5. Temporary subdivision/apartment sales rental office
6. **Farm stand <New use category in ZO.>**

3-104 Uses Permitted by Special Permit

The following uses may be approved by Special Permit by the Board of Zoning Appeals pursuant to the regulations and standards of **Article 8** and procedural requirements of **Part 6 of Article 9**:

Residential Business Uses

1. Cottage industries as home occupation
2. Retail sales or service as home occupation
3. Small contracting business as home occupation

Transient Housing Uses

4. Tourist home/boarding house/bed and breakfast

~~Community Uses~~

4. ~~Any creational or social uses operated by a non-profit organization where membership is limited to residents of nearby residential areas. <Category eliminated from ZO.>~~

Educational Uses

5. ~~Preschool/day care center/nursery school <Use eliminated from district>~~

Institutional Uses

5. Monastery, retreat or similar religious residential facility
6. Place of Worship

Adaptive Uses

7. Restaurants
8. Retail shops
9. Art and crafts gallery
10. Offices
11. Restaurants
12. Multi-family uses

Temporary Uses

13. Carnival, circus, festival, fair, tractor pull, horse show, dog show, steeplechase, pony ride, turkey shoot, sale of Christmas trees and other seasonal commodities, and other similar activities.

Recreational Uses

14. ~~Baseball hitting range <Use eliminated from District>~~
15. ~~Firing range, skeet, trapshooting facility and archery range (indoor or outdoor) <Use eliminated from District>~~
16. ~~Country club, golf course <Use eliminated from District>~~
17. ~~Private clubs <Use eliminated from District>~~

Public and Quasi-Public Uses

14. ~~Parks and recreational facilities, athletic <Category eliminated from ZO>~~
14. ~~Recycling containers, governmental <Category eliminated from ZO>~~

Commercial Business Uses

14. Farm Equipment sales, rental and service
14. ~~Barber/beauty shop <Use eliminated from district.>~~
15. ~~Kennel <Use eliminated from district>~~
16. ~~Veterinary Clinic <Use eliminated from district>~~
17. ~~Office, up to 6 employees <Use eliminated from district>~~
18. ~~Barbershop/beautyshop <Use eliminated from district>~~

Wholesaling, Processing and Industrial Uses

15. Commercial storage and processing of bulk agricultural products.
16. Sawmills
- ~~15. Contractor's offices and storage yards, entirely screened from view. <Use eliminated from district.>~~

Agriculture Uses

17. Aviary, commercial.
18. Distillation of industrial alcohol (ethanol) in conjunction with a farming operation.
19. Farmer's Market
20. Nursery/greenhouse with retail
21. Winery with minor special events.

Utilities

22. **Electrical substation distribution centers and transformer stations** <Was special exception>

Other

23. Interment uses
24. Height increases for buildings

3-105 Uses Permitted by Special Exception

The following uses may be approved by Special Exception by the Board of Supervisors pursuant to the regulations and standards of **Article 8** and procedural requirements of **Part 5 of Article 9**.

Residential Uses

- ~~1. Single family attached units within cluster developments~~
~~<Eliminated from district>~~
- ~~2. Duplex <Eliminated from district>~~

Recreation Uses

1. Camps, recreation grounds, lodges, resorts, tent campground
2. Commercial hunting and fishing preserve
3. **Team recreation sports** <Was administrative permit.>

Public or Quasi-Public Uses

4. Conference center
5. Governmental facilities, county
6. Parking facilities, public or private
- ~~7. Sanitary facilities, governmental~~ <Use eliminated from district.>

Agriculture Uses

7. **Aquaculture**<*Was permitted by-right.*>
 8. Winery with special events, major
- Wholesaling, Processing and Industrial Uses
- 9, Enclosed laboratories and facilities for manufacturing, assembling, and research and development.
 10. **Explosives storage** <*New use in district.*>
 11. Retail sales in conjunction with industrial uses pursuant to **Section 8-112** of this Ordinance.
- Utilities
12. Natural gas, oil, and other petroleum products metering, regulation, compressor and local office space incidental thereto and necessary for the operation of such stations but not including any storage facilities <*New use in district.*>
 13. Sewage treatment facility, disposal and water purification
 14. Utility transmission facilities not subject to State Corporation Commission;
 15. Water and sewer pumping and storage facilities, above ground.
 16. Radio, television, microwave, antenna and transmitting equipment
 17. Telecommunication facilities over 80' in height pursuant to **Article 8-1100** of this Ordinance..
- Transportation Uses
18. Airports and landing strips
 19. **Helistops and heliports** <*Was SP.*>
- Other
20. Mining, quarrying, mineral processing (on-site) including associated concrete batching and asphalt mixing.

3-106

Use Limitations

1. Unless otherwise specified in this Ordinance or modified pursuant to **Part 3 of Article 10**, all uses shall conform to the general and specific regulations and standards of Article 8 of this Ordinance. Included in this Article are performance standards and additional standards and regulations for specific permitted, special exception, special permit and administrative permit uses, accessory uses and structures, temporary uses, private streets, off-street parking and loading, signs, landscaping and buffering, and site plans.
2. Land lying within the 100 year floodplain, as defined in **Article 12** is designated as a Floodplain (FP) overlay zoning district and is

subject to the specific additional use restrictions, limitations and requirements of **Part 6 of Article 7**.

3. Land lying within designated airport safety and impact areas is subject to the additional regulations and restrictions of the Airport Safety and Impact (APSI) overlay zoning district set forth in **Part 7 of Article 7**. The APSI additional regulations include provisions which may limit new residential construction on land that is highly impacted by aircraft noise and may require soundproofing and other measures for specified locations near an airport.

3-107 Lot Requirements

1. Minimum district size: no requirement
2. Minimum development size: no requirement
3. Minimum lot size:
 - A. Conventional subdivision: 2 acres
 - B. **Cluster subdivision: no minimum** *<The current minimum is 30,000 square feet>*
4. Minimum lot width:
 - A. Conventional subdivision and **lots utilized for non-residential uses:** 400 ft. *<the requirement of 400' of lot width for any lot utilized for non-residential purposes is new.>*
 - B. Cluster subdivision: 150 ft.

3-308 Bulk Requirements

1. Maximum Building Height: 35 ft.
1. Minimum Yard Requirements:
 - A. Front Yard:
 - (1) Conventional Subdivision:
 - (a) local collector: 75 ft.
 - (b) major collector: 90 ft.

(c) freeways, arterials, Rt. 215: 150 ft.

(2) Cluster Subdivision:

(a) local collector: 50 ft.

(b) major collector: 65 ft.

(c) freeways, arterials, Rt. 215: 150 ft.

B. **Side and rear yards: 25 ft.** *<This represents a reduction from the current side and rear yard requirement of 50' within conventional subdivisions>*

3-109 Density Requirements. See Article 3 Part 3.

3-110 Open Space Requirements. See Article 3 Part 4.

PART 2 3-200 RURAL (RA) AGRICULTURE DISTRICT

3-201 Purpose and Intent

The Rural Agriculture (RA) District is established primarily to preserve and protect the agricultural economy of the County open spaces, the scenic beauty of the County; and environmental resources. The RA zoning district contains most of the areas within the County where agriculture and forestry are the predominant uses or where significant agricultural lands, open space or woodlands exist. While this Ordinance allows for limited and carefully regulated new residential development in the RA District, it is the purpose and intent of this Article as well as **Article 4** which follows to encourage and direct new residential growth into designated Service Districts and Villages. It is also the intent of this article to minimize land use conflicts between agricultural uses and the limited residential development allowed in the district.

3-202 Uses Permitted By Right

The following principal uses shall be permitted by right in the RA District subject to the use limitations set forth in **Section 3-206**, below, and in **Article 8**.

Residential Uses

1. Dwelling, single family detached.
2. Dwelling, manufactured.

Residential Business Uses

3. Home occupation with no retail sales or service.

Community Uses

4. Recreational or social uses approved as part of a subdivision or site plan and operated for use of residents only.

Recreation and Amusement

5. **Equestrian facilities (boarding and instruction) (nonspectator)**
<Was SP>

Wholesaling, Processing and Industrial Uses

6. On-site processing and sales of agricultural and aquacultural products

Agriculture

7. Farm: crop, livestock, horse, **dairy <Dairy was SP>**
8. **Cattle feedlot; swine farm <Was SP; need standards >**

9. Forestry
10. **Greenhouse or plant nursery, without retail** *<Was SP if > 10,000sq.ft.>*
11. Orchard/vineyard
12. Winery, without events
13. Land application of Class B biosolids

Utilities

14. Water and sewer pumping and storage facilities, below ground
15. Telecommunications facilities up to 80 feet in height
16. ~~Government recreational athletic use~~ *<Category eliminated from ZO>*

3-203 Uses Permitted by Administrative Permit

The following uses may be approved by Administrative Permit by the Zoning Administrator pursuant to the regulations and standards of **Article 8** and procedural requirements of Part **7 of Article 9**:

Residential Uses

1. Apartment, efficiency
2. Apartment, family

Temporary Uses

3. Construction office
4. Temporary manufactured home while constructing a dwelling
5. Temporary subdivision/apartment sales rental office
6. **Farm stand** *<New use category in ZO.>*

3-204 Uses Permitted by Special Permit

The following uses may be approved by Special Permit by the Board of Zoning Appeals pursuant to the regulations and standards of **Article 8** and procedural requirements of **Part 6 of Article 9**:

Residential Business Uses

1. Cottage industries as home occupation
2. Retail sales or service as home occupation
3. Small contracting business as home occupation
4. Auto repair as home occupation

Transient Housing Uses

4. Tourist home/boarding house/bed and breakfast

Community Uses

4. ~~Any creational or social uses operated by a non-profit organization where membership is limited to residents of nearby residential areas. <Category eliminated from ZO.>~~

Educational Uses

5. Preschool/day care center/nursery-school

Institutional Uses

6. Monastery, retreat or similar religious residential facility
7. Place of Worship

Adaptive Uses

7. ~~Restaurants <Eliminated in district>~~
8. **Retail shops <Was SE>**
9. **Art and crafts gallery <Was SE>**
10. **Offices <Was SE>**
11. **Restaurants <Was SE>**
12. **Multi-family uses <Was SE>**

Temporary Uses

13. Carnival, circus, festival, fair, tractor pull, horse show, dog show, steeplechase, pony ride, turkey shoot, sale of Christmas trees and other seasonal commodities, and other similar activities.

Recreational Uses

14. Baseball hitting range
15. **Class C Events <Now requires SE.>**
16. Firing range, skeet, trapshooting facility and archery range (indoor or outdoor)
17. **Golf driving range <New to district.>**
18. Golf practice facility
19. Private clubs **up to 10,000 sq.ft. <Any size now SP.>**
20. Swimming/tennis (racquet) facility, public or private.

Public and Quasi-Public Uses

21. Animal shelter
22. **Museum up to 10,000 sq.ft. <Any size now SP.>**
23. ~~Fairgrounds <Category eliminated from ZO.>~~
14. ~~Parks and recreational facilities, athletic <Category eliminated from ZO>~~
14. ~~Recycling containers, governmental <Category eliminated from ZO>~~

Commercial Business Uses

23. Antique shop up to **5,000 sq.ft.** *<3,000 now cut-off>*
24. **Carpentry, plumbing/electrical, printing, welding, sheet metal shops up to 5,000 sq.ft.** *<New use to district.>*
24. Farm equipment sales, rental and service
25. Farm supply establishment.
25. **Fuel yard, retail** *<New use in district.>*
26. Kennel
27. Office, 6 or fewer employees
28. Taxidermy shop
29. Veterinary clinic.
- ~~14. Barber/beauty shop~~ *<Use eliminated from district.>*
- ~~18. Broadcasting studio~~ *<Use eliminated from district>*

Wholesaling, Processing and Industrial Uses

30. Auction establishment
31. Commercial storage and processing of bulk agricultural products.
32. **Frozen food lockers up to 5,000 sq.ft.** *<New use in district.>*
32. Livestock Exchange
33. **Sawmills** *<New use to district.>*
- ~~15. Contractor's offices and storage yards, entirely screened from view.~~ *<Use eliminated from district.>*

Agriculture Uses

34. Aviary, commercial.
35. Distillation of industrial alcohol (ethanol) in conjunction with a farming operation.
36. Farmer's Market
37. Community Farmer's Market
38. Nursery/greenhouse with retail
39. Winery with minor special events.

Utilities

40. **Electrical substation distribution centers and transformer stations** *<Was special exception>*

Other

41. Interment uses
42. Height increases for buildings

3-205 Uses Permitted by Special Exception

The following uses may be approved by Special Exception by the Board of Supervisors pursuant to the regulations and standards of **Article 8** and procedural requirements of **Part 5 of Article 9**.

Residential Uses

1. ~~Single family attached units within cluster developments~~
~~<Eliminated from district>~~
2. ~~Duplex~~ ~~<Eliminated from district>~~

Educational Uses

1. College/university, including residential facilities for use by students affiliated with the educational institution
2. Primary, secondary and advanced schools of general education, with or without dormitory
3. Schools of special/technical education, indoor or outdoor

Institutional Uses

4. Museum larger than 10,000 sq.ft.
5. Residential care facility, **minor** or major ~~<Minor now SP>~~
6. Medical care facility, minor

Recreation and Amusement Uses

7. Camps, recreation grounds, lodges, resorts, tent campground
8. Commercial hunting and fishing preserve
9. **Country club/golf course, public or private** ~~<Use is now SP.>~~
10. Equestrian facilities (boarding and instruction), spectator
11. Field events and activities (Class A or Class B)
12. Marina, boat or docking facilities ~~<Use is now SP>~~
13. Paintball, outdoors
14. Private clubs 10,000 sq.ft. to 75,000 sq.ft.
15. **Team recreation sports** ~~<Was administrative permit.>~~

Public or Quasi-Public Uses

16. Conference center
17. Governmental facilities, county
18. **Library** ~~<New use in district.>~~
19. Parking facilities, public or private
20. Solid waste transfer station, governmental
21. Sanitary landfill, governmental
7. ~~Public safety facility~~ ~~<Category eliminated from ZO.>~~
7. ~~Arena~~ ~~<Category eliminated from ZO.>~~
7. ~~Penal/correctional facility~~ ~~<Category eliminated from ZO.>~~

Commercial Business Uses

22. **Antique shop between 5,000 and 75,000 sq.ft.** ~~<now >3,000 not allowed in district.>~~

Wholesaling, Processing and Industrial Uses

23. Abattoir, up to 6 acres
24. **Explosives storage** <*New use in district.*>
25. Retail sales in conjunction with industrial uses pursuant to **Section 8-112** of this Ordinance.
- ~~9. Enclosed laboratories and facilities for manufacturing, assembling, and research and development. <Eliminated from district.>~~
- ~~9. Any industrial use not contained entirely in building or screened from view on less than 1 acre. <Eliminated from district.>~~

Agriculture Uses

26. **Aquaculture**<*Was permitted by-right.*>
27. Class B bio-solids storage facility.
28. Winery with major pecial events.

Utilities

29. Electrical generating plants and facilities.
30. **Natural gas, oil, and other petroleum products metering, regulation, compressor and local office space incidental thereto and necessary for the operation of such stations but not including any storage facilities** <*New use in district.*>
31. Sewage treatment facility, disposal and water purification
32. Utility transmission facilities not subject to State Corporation Commission;
33. Water and sewer pumping and storage facilities, above ground.
34. Radio, television, microwave, antenna and transmitting equipment
35. Telecommunication facilities over 80' in height pursuant to Article **8-1100** of this Ordinance..

Transportation Uses

36. Airports and landing strips
37. **Helistops and heliports** <*Was SP.*>

Other

38. Mining, quarrying, mineral processing (on-site) including associated concrete batching and asphalt mixing.

3-206

Use Limitations

1. Unless otherwise specified in this Ordinance or modified pursuant to **Part 3 of Article 10** of this Ordinance, all uses shall conform to the general and specific regulations and standards of Article 8 of this Ordinance. Included in this Article are performance standards and additional standards and regulations for specific permitted, special exception, special permit and administrative permit uses,

accessory uses and structures, temporary uses, private streets, off-street parking and loading, signs, landscaping and buffering, and site plans.

2. Land lying within the 100 year floodplain, as defined in Article 12 is designated as a Floodplain (FP) overlay zoning district and is subject to the specific additional use restrictions, limitations and requirements of **Part 6 of Article 7**.
3. Land lying within designated airport safety and impact areas is subject to the additional regulations and restrictions of the Airport Safety and Impact (APSI) overlay zoning district set forth in **Part 7 of Article 7**. The APSI additional regulations include provisions which may limit new residential construction on land that is highly impacted by aircraft noise and may require soundproofing and other measures for specified locations near an airport.

3-207 Lot Requirements

1. Minimum district size: no requirement
1. Minimum development size: no requirement
2. Minimum lot size:
 - A. Conventional subdivision: 2 acres
 - B. **Cluster subdivision: no minimum** *<The current minimum is 30,000 square feet>*
4. Minimum lot width:
 - A. Conventional subdivision and **lots utilized for non-residential uses:** 300 ft. *<the requirement of 300' of lot width for any lot utilized for non-residential purposes is new>*
 - B. Cluster subdivision: 150 ft.

3-209 Bulk Requirements

1. Maximum Building Height: 35 ft.
2. Minimum Yard Requirements:

A. Front Yard:

(1) Conventional Subdivision:

- (a) local collector: 75 ft.
- (b) major collector: 90 ft.
- (c) freeways, arterials, Rt. 215: 150 ft.

(2) Cluster Subdivision:

- (a) local collector: 50 ft.
- (b) major collector: 65 ft.
- (c) freeways, arterials, Rt. 215: 150 ft.

B. Side and rear yards: 25 ft.

3-210 Density Regulations. See Section 3 Part 3.

3-211 Open Space Regulations. See Section 3 Part 4

PART 3 3-300 DENSITY FOR RC AND RA DISTRICTS

3-301 Density Regulations.

The residential density for the RC and RA zoning districts shall be based on a sliding scale zoning density whereby the number of new lots created from a parcel is determined by the size in acres of the parent parcel. The basis for calculating the number of new lots allowed shall be the size of the parent parcel of record as of May 21, 1981. If the lot of record of May 21, 1981 has been divided subsequent to that date, the determination of the number of new lots that can be created will be based on a proportionate share allocation of the number of remaining lots that can be created by virtue of the sliding scale zoning density. The proportionate share allocation shall be calculated as defined and prescribed in Article 12 of this Ordinance. For lots of less than ten (10) acres existing as of May 21, 1981, one family transfer shall be permitted in the RC and RA zoning districts, provided that the family transfer and residue lots shall be in conformance with all other applicable provisions of the Zoning and Subdivision Ordinances.

The sliding scale density for the RC and RA zoning districts is as shown below:

Size of Parcel (acres)	Number of Lots Permitted
0 - 9.99	1
10 - 19.00	2
20 - 34.99	3
35 - 54.99	4
55 - 79.99	5
80 - 104.99	6
105 - 129.99	7
130- 154.99	8
155- 179.99	9
180- 204.99	10
205 and above	11 plus one additional lot for each additional 50 acres

PART 4 OPEN SPACE FOR RC AND RA DISTRICTS

3-401 Open Space Regulations.

1. The open space requirement for the RC and RA zoning districts is based on the size of the parent parcel that existed as of May 20, 1986; 85% of the total land area of the parent parcel is required to remain within a single parcel designated as non-common open space, unless a special exception is granted in accordance with Section 8-125.
 - A. This non-common open space land shall be platted and recorded with a deed of easement acceptable to the County as permanent non-common open space.
 - B. Non-common open space shall not be required from divisions of parcels less than 30 acres.
 - C. The criteria for the identification of qualifying non-common open space are found in **Section 3-402** below.
 - D. The non-common open space parcel shall be entitled to one dwelling unit, plus on parcels of 50 acres or greater, tenant houses pursuant to **Section 2-501**.
 - E. Permitted uses within the non-common open space shall be limited to those listed in **Section 3-404** below.
 - F. Specific requirements for the platting and recordation of the non-common open space are in **Sections 3-405** below.

3-402 General Criteria for Selection of Land for Non-Common Open Space

1. Land selected to meet the 85% non-common open space requirement shall satisfy general criteria in order to meet the purpose and intent of this Ordinance and the goals of the Comprehensive Plan relating to the protection and preservation of agriculture, agricultural land, woodland, open space, natural resources and environmentally sensitive areas. In order to qualify as open space the open space land shall be contiguous; shall be at least 25 acres; shall be zoned RC or RA and shall meet at least one of the following general criteria:
 - A. The land is suitable for production of crops, livestock or livestock products.

- B.. The land is suitable for permanent woodlands or production of forestal products including timber pulpwood, posts, firewood, Christmas trees and other wood products for sale or farm use;
 - C. The land is of significant scenic, natural or historical value.
2. For divisions of land requiring 85% non-common open space the 15% remaining land shall conform to the following criteria:
- A. The non-open space land shall be located so as to minimize the loss or degradation of natural resources, including prime agricultural and forestal lands; environmentally sensitive areas such as floodplains, steep slopes, rock outcrops and seasonally wet areas; predominant or unusual geologic features such as mountain peaks, caverns, gorges; areas critical to the existence of important types of flora and/or fauna. The following standards shall be used to guide the evaluation of impacts:
 - (1) Natural resources, environmentally sensitive areas and unusual geological features will be identified using the following criteria:
 - (a) Prime agricultural lands - those soils which are delineated as Class I, II or III soils by the Soil Conservation Service, and other soils with slopes less than 15% which have comparable productive value as those rated Class III or better as delineated on the Fauquier County Soils Survey or based upon acceptable soils delineation study.
 - (b) Prime forest lands - those that are well suited for timber production (as delineated by soil type on the Fauquier County Soil Survey or by acceptable soils delineation study) and which contain stands of timber which could qualify for use valuation taxation on the effective date of this Ordinance.
 - (c) Floodplains - as delineated in the overlay district or as revised based on acceptable detailed engineering studies.

- (d) Steep areas - those areas containing slopes in excess of 25% as determined using current United States Geological Survey quads or as determined based on acceptable detailed engineering studies.
 - (e) Highly erodable soils as delineated by soil type on the Fauquier County Soil Survey or based on acceptable soils delineation study.
 - (f) Rock outcrops and seasonally wet areas.
 - (g) Areas critical to the existence of important flora and/or fauna.
- (2) In order to ensure that adverse impacts are minimized the approving authority for the subdivision of land requiring the 85% non-common open space shall consider the following as measures that can be incorporated to minimize adverse impacts:
- (a) Locating site improvements including streets and lots so as to take advantage of topography to mitigate adverse visual impacts. Improvements shall maintain, to the extent possible, the scenic qualities and/or historic resources of the site.
 - (b) Platting and designing the proposed development in such a way as to maximize its compatibility in character and intensity with the existing uses in the neighborhood in order that it will not significantly jeopardize or infringe upon the continuation of such existing uses.
 - (c) Providing buffers with screening as appropriate between new residential lots and an Agricultural and Forestal District or an existing agricultural use.

Permitted uses within the open space shall be limited to those listed below. These use limitations shall be included in the deeded open space easements for the property.

- 1. Bed and breakfast establishment as an adaptive use**
- 2. Principal dwelling**
- 3. Equestrian facilities (boarding and instruction, non-spectator)**
- 4. Farms-dairy; crop; livestock; horse; truck**
- 5. Forestry**
- 6. Orchard/vineyard**
- 7. Park and recreation facilities, government and civic**
- 8. Plant nursery/greenhouse, less than 10,000 sq. feet, wholesale only**
- 9. Tenant house pursuant to **Section 2-501**.**
- 10. Winery, with special events, minor**
<Staff would note that this list of uses proposed to be permitted in non-common open space parcels differs from those currently allowed and recorded in deeds, and the County will thereby effectively have two different categories of non-common open space parcels, where different uses are permitted. Bed & Breakfast establishment as an adaptive use and non-spectator equestrian facilities have been added. Feed lots have been eliminated, which is inconsistent with the Right to Farm provisions. Farmer's market and community farmer's market have also been eliminated, which may be contrary to the goal of supporting agriculture on these non-common open space parcels. Application of Class B biosolids has also been eliminated>

3-404 The Deed of Open Space Easement

- 1. General Content Requirements**
 - A. The required open space shall be described and identified as to location, size, use and control in an open space**

easement. These restrictive deeds shall be written so as to constitute a deeded open space easement to run with the land and be in full force and effect in perpetuity unless terminated in a manner set forth hereinafter. The restrictive deed shall be in a form approved by the County Attorney and shall include a listing of the use restrictions contained in Section 3-112 above. The open space easement document shall also be constructed so that the Board of Supervisors of Fauquier County is party to the deed restriction. However, nothing contained herein shall be construed as preventing the owner of the land from granting additional open space easements to other public bodies such as the Virginia Outdoors Foundation.

- B. The non-common open space shall be in one parcel and shall meet the requirements of **Section 3-112** of the Zoning Ordinance. The deed of non-common open space shall be recorded as follows:
- (1) For administrative and family transfer divisions, a deed of non-common open space meeting the requirements of **Section 3-112** must be recorded when either:
 - (a) there is insufficient land available for future subdivision after deduction for the 85 percent open space area; or
 - (b) no additional sliding scale density is available
 - (2) For subdivisions other than administrative and family transfer divisions which exhaust all density under the sliding scale, a deed of non-common open space physically designating the open space shall be recorded with the plat of subdivision.
 - (3) For subdivisions other than administrative and family transfer divisions which do not exhaust all density under the sliding scale, the Deed of Non-Common Open Space shall be recorded at the time of the first plat of subdivision. The Deed of Non-Common Open Space shall either physically designate the 85% open space or reserve the additional development rights by providing

agreement language for the deed and plat that upon completion of subdivision at least 85% of parcel will remain in undivided non-common open space. The Director or subdivision agent may, in his discretion, impose platting requirements at the time of subdivision sufficient to ensure that at least 85% open space will be provided upon completion of the development.

2. Modification and Termination

(A) The deed of open space shall provide that after 25 years it may be changed or modified by a vote of 75% of the Board of Supervisors upon petition by the owner of the open space parcel. Such vote by the Board to be taken only after a public hearing. A vote to change or modify shall be based on a positive finding that:

- (1) The open space, the use(s) to which the open space was restricted are no longer possible, and are in conflict with a duly adopted Comprehensive Plan, and
- (2) Substitute open space proposed by the application is at least of equivalent usefulness and acreage and would better comply with the duly adopted Comprehensive Plan.